

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE**
45 Fremont Street, 21st Floor
San Francisco, California 94105

File No. RH03029826

April 26, 2006

NOTICE OF AVAILABILITY OF CHANGED TEXT

On December 23, 2005, California Insurance Commissioner John Garamendi issued a Notice of Proposed Action and Notice of Public Hearing, proposing amendments to Title 10, California Code of Regulations, Sections 2632.8 and 2632.11 regarding the weight to be given to an insurer's automobile rating factors in determining automobile insurance rates and premiums. The Department held a public hearing on February 24, 2006, and received written public comments in response to the Notice.

PUBLIC COMMENT INVITED:

The Commissioner has proposed changes to the text of the regulations in response to public comments, and now solicits written comments on those changes only, which are attached. Comments submitted on unchanged portions will not be considered.

The Commissioner believes the changes made are either nonsubstantial, solely grammatical in nature, or are sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. Accordingly, pursuant to the provisions of California Government Code Section 11346.8(c), the Commissioner is soliciting written public comment on the changes. A copy of the changes, with the proposed changes clearly indicated, is available for public comment for at least 15 days. Deletions are indicated in double strikethrough; additions indicated in double underline.

CONTACT PERSONS:

All written comments submitted in response to this Notice and all general or substantive questions regarding this Notice should be directed to either of the contact persons as follows:

Bryant Henley, Staff Counsel; (415 538-4111); Henleyb@insurance.ca.gov
Elizabeth Mohr, Assistant Chief Counsel; (415 538-4112); Mohre@insurance.ca.gov
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor, San Francisco, CA 94105
Facsimile: (415) 904-5490

SUBMISSION OF WRITTEN COMMENTS:

All written comments on the changes must be received by the Insurance Commissioner, at the address listed above, no later than **5:00 p.m. on Wednesday, May 17, 2006**. Comments submitted by e-mail and facsimile will be accepted and considered.

AUTOMATIC MAILING:

A copy of this notice, and the text of the proposal, will automatically be sent to all those who testified at the public hearing and provided contact information, those who submitted written comments at the public hearing, all persons whose comments were received during the public comment period, all persons who

requested copies of information regarding the regulations, and all persons who requested notification of the availability of such changes.

JOHN GARAMENDI
Insurance Commissioner

By _____/S/_____
Bryant Henley
Staff Counsel

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE**
45 Fremont Street
San Francisco, CA 94105

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**Title 10
Proposed Revisions to Sections 2632.5, 2632.8 and 2632.11
Optional Automobile Insurance Rating Factors**

15-DAY NOTICE OF REVISED REGULATION TEXT

The original proposed revisions to the regulation text are reflected as follows:

The proposed additions to existing text are in underline; proposed deletions to existing text are in ~~strike through~~.

The new proposed 15-day notice revisions are reflected as follows:

Deletions are indicated in ~~double strike through~~; additions indicated in double underline.

Section 2632.5. Rating Factors.

[Subdivisions (a) through (c) are unchanged.]

(d) In addition to the rating factors set forth in subdivision (c), an insurer's class plan, and all rates and premiums determined in accordance therewith, may utilize the following optional rating factors (the "Optional Factors"):

[Subdivisions (1) through (14) are unchanged.]

(15) Relative claims frequency. This factor shall contain a maximum of ~~ten~~ twenty categories and shall reflect where the insured vehicle is garaged. These categories shall be based on grouping the zip codes in the state into bands. Alternately, the bands could be based on grouping the census tracts in the state. Each band shall contain areas with a similar average claims frequency. In the event that the data for a zip code or census tract is not fully credible, the adjustment process described in Section 2632.9(d) shall be followed;

(16) Relative claims severity. This factor shall contain a maximum of ~~ten~~ twenty categories and shall reflect where the insured vehicle is garaged. These categories shall be based on grouping the zip codes in the state into bands. Alternately, the bands could be based on grouping the census tracts in the state. Each band shall contain areas with a similar average claims severity. In the event that the data for a zip code or census tract is not fully credible, the adjustment process described in Section 2632.9(d) shall be followed.

(e) The three mandatory factors may not be combined with any other factor, except Percent Use, Academic Standing, Gender, ~~Marital~~ Marital Status, and Driver Training may be combined with number of years of driving experience. If an insurer elects to combine number of years of driving experience with any other optional factor as provided in this Section, the insurer

shall demonstrate in its class plan that the rating factors used in combination, when considered individually, comply with the weight ordering requirements of Section 2632.8.

NOTE: Authority: Sections 1861.02, 12921 and 12926 of the California Insurance Code and *Calfarm Insurance Company v. Deukmejian* 48 Cal.3d 805 (1989). Reference: Sections 1861.02 and 1861.05 of the California Insurance Code.

Section 2632.8. Factor Weights.

(a) For each type of coverage, ~~four~~ factor weights shall be ~~evaluated. These four weights are: one weight~~ calculated for each of the three mandatory factors listed in Section 2632.5(c)(1) through (3) and ~~one~~ for all each of the optional factors the insurer elects to utilize in its class plan (from Section 2632.5(d)) ~~weights averaged together.~~ Solely for the purpose of calculating factor weights, bodily injury coverage may be combined with property damage coverage and comprehensive coverage may be combined with collision coverage.

- (b) The data used to compute the weight shall be based on one of the following:
1. all of the subject company's currently insured vehicles;
 2. the same data set used to perform the sequential analysis in Section 2632.7; or
 3. the set of insured vehicles that may be published by the Department of Insurance.

(c) The weight of a rating factor is defined as follows:

For additive and multiplicative factors, the weight of Rating Factor $j = \sum (R_i - R) * E_i * B$. For additive and multiplicative factors, compute, $|R_i - R| * E_i * B$ for each category of rating factor j . The weight for rating factor j is then the sum of all these numbers (as i runs across all categories of rating factor j).

Where R_i -- Balanced relativity of the i th category of rating factor j (the superscript j is omitted, the same below)

R -- Weighted average relativity (the balanced relativities are weighted by the percent of exposure so that R should be equal to 0 for additive factors and 1 for multiplicative factors)

E_i -- Percent of exposure in the i th category of rating factor j

B --Base rate

(d) The weights of the factors, as calculated in subdivision (c), must align in decreasing order of importance as follows: driving safety record must have the most weight followed by annual miles driven followed by years of driving experience followed by ~~the~~ each individual weight for the of each optional factor. If the weights are not in the order as specified herein then the insurer must correct the relativities of the rating factors as follows:

- (1) Select the rating factors to be modified.
- (A) Compute the weighted average of the initial relativities for the factor over the data set selected in subdivision (b) herein;
- (B) Subtract the weighted average from each initial relativity;
- (C) Multiply the result of step (B) by a correction factor;
- (D) Add the result of step (C) to the weighted average.

The formula for this correction is:

$$NR = (IR - WA) * CF + WA$$

Where: NR = New Relativity
IR = Initial Relativity
CF = Correction Factor
WA = Weighted Average

- (2) Repeat process of subdivision (d)(1)(A) through (D) if it is necessary to correct the weight of any of the rating factors.
- (3) The weight of a corrected rating factor may not exceed the corrected weight of the succeeding rating factor, in decreasing order of importance, by more than 0.25.
- (4) If two rating factor weights are not in the order specified in this Section, the subject company shall have the right to increase or decrease the weight of either factor to achieve compliance. This right shall apply to both the optional rating factors and the mandatory rating factors.

NOTE: Authority cited: Section 1861.02, Insurance Code; and *CalFarm Insurance Company v. Deukmejian*, (1989) 48 Cal.3d 805. Reference: Sections 1861.02 and 1861.05, Insurance Code.

Section 2632.11 Submission of Class Plans, Symbols, and Implementation Date

~~(a) Following the effective date of the 2006 amendments to section 2632.8, The Commissioner shall give public notice, at least 12090 days in advance, of a date within which~~
Every insurer offering or selling a policy of private passenger automobile insurance shall submit a class plan which complies with this subchapter to the Commissioner for review. Class plan applications submitted pursuant to that notice shall include a transition plan. The following shall apply to all class plans submitted in accordance with this subchapter pursuant to that notice and class plans submitted any time thereafter:

(1) A class plan shall be considered to have been received by the Commissioner on the date that it is received by the Department's Rate Filing Bureau in San Francisco.

(2) Within 15 working days of receipt, the Commissioner shall review filings submitted pursuant to this subchapter for completeness. If the Commissioner determines that the class plan is not complete, notice stating the grounds for incompleteness will be given to the insurer within the 15 working day period and the filing of the class plan will be rejected.

(3) Rejection of the filing of a class plan for incompleteness shall not relieve any insurer of the duty to file ~~bar the refiling of~~ a complete class plan.

(b) Class plans submitted for review shall contain a completed class plan application, in a form prescribed by the Commissioner, and underwriting guidelines.

~~(c) All class plans submitted in accordance with subsection (a) shall be implemented on the later of the following dates:~~

~~(1) For class plan changes submitted in accordance with the 2006 amendments to Section 2632.8, 90 days after the date the plan is approved by the Commissioner; or (2) a~~

~~uniform date selected by the Commissioner, as specified in subpart (d) of this section; or (2) For class plan changes submitted for reasons other than compliance with the 2006 amendments to Section 2632.8, 90 days after the date the plan is approved by the Commissioner, every class plan shall be submitted in conjunction with an accompanying rate filing and shall be subject to the following conditions:~~

(1) Class plan applications submitted in accordance with subdivision (c) shall include a transition plan. The transition plan shall consist of at least two annual class plan filings. The first of the two annual class plan filings shall be submitted within 30 days of the date the 2006 amendments to Section 2632.8 are filed with the Secretary of State. Insurers must fully comply with Section 2632.8 within two years of the date the 2006 amendments to Section 2632.8 are filed with the Secretary of State.

(2) An insurer shall revise factor weights in each of the annual class plan filings to correct non-compliance with Section 2632.8.

(3) The amount of non-compliance shall be based upon the insurer's class plan in effect on December 31, 2005.

(A) The amount of non-compliance shall be established by comparing the factor weight for each optional rating factor to the factor weight for the third mandatory factor, years driving experience.

(B) The formula for establishing the amount of non-compliance shall be: (weight of optional factor divided by weight of years driving experience) minus 1.00.

(C) If the resulting calculation is greater than or equal to zero, the optional factor does not comply and must be corrected. If the calculation is less than zero, the factor is in compliance.

(4) The first annual filing must correct at least 15% of the current amount of non-compliance for every rating factor that is not in compliance. The transition plan shall be demonstrated in each filing as follows:

(A) The insurer must demonstrate that it has achieved the required amount of correction in each filing. This shall be done by calculating the formula in subdivision (c)(3)(B) of this Section for the current class plan and newly-submitted class plan for each optional rating factor to show that the required amount of correction has been made. The required amount of correction to be demonstrated in the newly-submitted class plan can be achieved by tempering the optional rating factor or pumping years driving experience and other mandatory factors as necessary, relative to the rating factor weights used in the formula specified in subdivision (c)(3)(B) of this Section. Alternatively, the required amount of correction can be achieved by simultaneously tempering the optional rating factor and pumping years driving experience

and other mandatory factors as necessary, relative to the rating factor weights used in the formula specified in subdivision (c)(3)(B) of this Section.

(B) For each filing submitted on an annual or more frequent basis to comply with subdivision (c) of this Section, the insurer must perform the weight test and correction calculation with a set of policies with effective dates no more than six months prior to the date of filing.

(5) The annual corrections described in subdivision (c) of this Section shall apply to each individual coverage or combination of coverages as described in Section 2632.8(a).

(6) The annual corrections described in subdivision (c) of this Section shall apply to the factor weights of each optional rating factor, as listed in Section 2632.5(d).

(7) The factor weights for the three mandatory rating factors in each filing shall be in the order specified in Section 2632.8(d).

(8) An insurer may choose to make more than one class plan filing during each annual period, however, the first annual filing must correct at least 15% of the current amount of non-compliance as provided in subdivision (c) of this Section. An insurer may also choose to achieve full compliance at any date prior to the end of the two-year transition period.

~~Implementation, as referred to herein, shall apply to both the issuance of new policies and renewals, and the implementation may not result in unfair discrimination between insureds that are issued new and renewal policies.~~

(d) Any class plan change approved by the Commissioner shall be implemented no later than 90 days after the date the plan is approved by the Commissioner. Implementation, as referred to herein, shall apply to both the issuance of new policies and renewals, and the implementation shall not result in unfair discrimination between insureds that are issued new and renewal policies.~~The Commissioner shall give public notice, at least 90 days in advance, of a date selected for uniform implementation of approved plans.~~

[Subdivisions (e) through (j) are unchanged.]

NOTE: Authority: Sections 1861.02, 12921 and 12926 of the California Insurance Code and *Calfarm Insurance Company v. Deukmejian* 48 Cal.3d 805 (1989). Reference: Sections 1861.02 and 1861.05 of the California Insurance Code.